

B. The modifications of subpart A of part 2 of the Appendix to the TSUS, made by this proclamation, shall be effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date of publication of this proclamation in the FEDERAL REGISTER. 19 USC 1202.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of June in the year of our Lord nineteen hundred and seventy seven, and of the Independence of the United States of America the two hundred and first.

JIMMY CARTER

Proclamation 4510

June 22, 1977

Implementation of Orderly Marketing Agreements—and the Temporary Quantitative Limitation on the Importation Into the United States of Certain Footwear

By the President of the United States

A Proclamation

1. On February 8, 1977, the United States International Trade Commission (USITC) reported to the President (USITC Publication 799) the results of its investigation under section 201(b) of the Trade Act (19 U.S.C. 2251(b)) (the Trade Act). The USITC determined that footwear provided for in items 700.05 through 700.85, inclusive (except items 700.51, 700.52, 700.53, 700.54, and 700.60, and disposable footwear designed for one-time use provided for in item 700.85) of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. The USITC recommended the imposition of certain tariff rate quotas on imports of the above specified articles. 19 USC 1202.

2. On April 1, 1977, pursuant to section 202(b)(1) of the Trade Act (19 U.S.C. 2252(b)(1)), and after taking into account the considerations specified in section 202(c) of the Trade Act (19 U.S.C. 2252(c)), I determined to remedy the injury found to exist by the USITC through the negotiation of orderly marketing agreements with appropriate suppliers of footwear, as authorized by section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)); and announced my intention to negotiate such agreements calling for limits on the export from certain foreign countries, and the import into the United States, of certain footwear. On April 1, 1977, in accordance with section 203(b)(1) of the Trade Act (19 U.S.C. 2253(b)(1)), I transmitted a report to the Congress setting forth my determination and intention to negotiate orderly marketing agreements and stating the reasons why my decision differed from the action recommended by the USITC.

3. Section 203(e)(1) of the Trade Act (19 U.S.C. 2253(e)(1)) requires that import relief be proclaimed and take effect within 90 days after a Presidential determination to negotiate orderly marketing agreements.

USC prec. title 1.

4. Pursuant to the authority vested in the President by the Constitution and the statutes of the United States, including section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)), orderly marketing agreements were concluded on June 14, 1977, between the Government of the United States of America and the Government of the Republic of China, and on June 21, 1977, between the Government of the United States of America and the Government of the Republic of Korea, limiting the export from the Republics of China and Korea, respectively, and the import into the United States, of footwear provided for in items 700.05 through 700.85, inclusive (except items 700.51, 700.52, 700.53, 700.54, 700.60, 700.75, and disposable footwear designed for one-time use provided for in item 700.85) of the TSUS.

5. Pursuant to section 203(k)(1) of the Trade Act (19 U.S.C. 2253(k)(1)), I have considered the relation of such actions to the international obligations of the United States.

6. In accordance with section 203(d)(2) of the Trade Act (19 U.S.C. 2253(d)(2)), I have determined that the level of import relief hereinafter proclaimed permits the importation into the United States of a quantity or value of articles which is not less than the average annual quantity or value of such articles imported into the United States from the Republic of Korea, and from the Republic of China, in the 1974-1976 period, which I have determined to be the most recent representative period for imports of such articles.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and statutes of the United States, including section 203 of the Trade Act (19 U.S.C. 2253), and section 301 of title 3, United States code, do hereby proclaim:

(1) Orderly marketing agreements were entered into on June 14, 1977, and June 21, 1977, between the Government of the United States of America and the Government of the Republic of China and the Government of the Republic of Korea, respectively, with respect to trade in certain footwear, effective June 28, 1977. The orderly marketing agreements account for a major part of the United States imports of the articles covered by the agreements. Said orderly marketing agreements are to be implemented according to their terms and as directed in this proclamation, including the Annex thereto.

19 USC 1202.

(2) Subpart A, part 2 of the Appendix to the TSUS is modified as set forth in the Annex to this proclamation.

(3) The President's authority under section 203(e)(2) of the Trade Act (19 U.S.C. 2253(e)(2)), to negotiate orderly marketing agreements with other foreign suppliers after import relief goes into effect is hereby delegated to the Special Representative for Trade Negotiations (hereinafter referred to as the "Special Representative"). The President's authority under section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)) to determine that any agreement negotiated pursuant to section 203(a)(4) or 203(e)(2) of the Trade Act (19 U.S.C. 2253(a)(4) and (e)(2)) is no longer effective is hereby delegated to the Special Representative, to be exercised in conformity with paragraph (4)(a) below. In the event of such a determination, the Special Representative shall prepare any proclamations that may be appropriate to implement import relief authorized by section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)). The President's authority in section 203(g)(1) and (2) of the Trade Act (19 U.S.C. 2253(g)(1) and (2)) to prescribe regulations governing the entry,

or withdrawal from warehouse, for consumption of articles covered by the orderly marketing agreements and to issue rules and regulations governing the entry, or withdrawal from warehouse, for consumption of like articles which are the product of countries not parties to such agreements, has been delegated to the Secretary of the Treasury pursuant to section 5(b) of Executive Order No. 11846. Such authority shall be exercised by the Secretary of the Treasury, upon direction by the Special Representative in consultation with representatives of member agencies of the Trade Policy Staff Committee.

19 USC 2111
note.

(4) In exercising the authority delegated in paragraph (3) above, the Special Representative shall, in addition to other necessary actions, institute the following actions:

(a) Should the export restraint levels specified in the orderly marketing agreements described in paragraph (1) above, and in the Annex to this proclamation be exceeded, or should imports from countries not parties to such agreements increase in such quantities as to disrupt the effectiveness of the orderly marketing agreements, the Special Representative, after consultation with representatives of member agencies of the Trade Policy Staff Committee, may make a determination that for the purposes of section 203(e) (3) of the Trade Act the orderly marketing agreements do not continue to be effective.

19 USC 2253.

(b) Beginning on June 28, 1977, if during any restraint period the quantity of imports of footwear of the types covered by the agreements, from countries other than the Republic of China and the Republic of Korea, appear likely to disrupt the effectiveness of the provisions of the orderly marketing agreements described in paragraph (1) above, the Special Representative may initiate consultations with those countries responsible for such disruptions and may prevent further entry of such articles for the remainder of that restraint period or may otherwise moderate or restrict imports of such articles from such countries pursuant to section 203(g) (2) of the Trade Act. Before exercising this authority, the Special Representative shall consult with representatives of the member agencies of the Trade Policy Staff Committee.

(c) Should the Special Representative determine, pursuant to this proclamation, to institute import restrictions on articles entered, or withdrawn from warehouse, for consumption from countries other than the Republic of China or the Republic of Korea pursuant to this proclamation, such action shall become effective not less than eight days after such determination and any necessary changes in the TSUS have been published in the FEDERAL REGISTER.

19 USC 1202.

(5) The Special Representative shall take such actions and perform such functions for the United States as may be necessary concerning the administration, implementation, modification, amendment or termination of the agreements described in paragraph (1) of this proclamation, and any actions and functions necessary to implement paragraphs (3) and (4) of this proclamation. In carrying out his responsibilities under this paragraph the Special Representative is authorized to delegate to appropriate officials or agencies of the United States authority to perform any functions necessary for the administration and implementation of the agreements or actions. The Special Representative is authorized to make any changes in Part 2 of the Appendix to the TSUS which may be necessary to carry out the agreements or actions. Any such changes in the agreements shall be effective on or after their publication in the FEDERAL REGISTER.

(6) The Commissioner of Customs shall take such actions as the Special Representative shall determine are necessary to carry out the agreements described in paragraph (1) of this proclamation, and to implement any import relief implemented pursuant to paragraphs (3) and (4) of this proclamation, or any modification thereof, with respect to the entry, or withdrawal from warehouse, for consumption into the United States of products covered by such agreements or by such other import relief.

(7) This proclamation shall be effective as of June 28, 1977, and shall continue in force through June 30, 1981, unless the period of its effectiveness is earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of June in the year of our Lord, nineteen hundred and seventy seven, and of the Independence of the United States of America the two hundred and first.

JIMMY CARTER

ANNEX

Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified—

(a) by adding the following new headnote:

Post, p. 1748.

"3. *Quantitative limitation on certain footwear.*—The provisions of this headnote apply to items 923.90 through 923.94, inclusive, of this subpart. The quantitative import limitations imposed are in addition to the duties provided for the restrained articles in schedule 7, part 1A. The import restrictions provided for in this subpart do not apply to footwear with an aggregate value not over \$100 in any shipment, if imported for the personal use of the importer.

(a) *Definitions.*—For the purposes of this subpart—

(i) the term "*footwear*" means all the footwear provided for in schedule 7, part 1A, except the following: footwear provided for in items 700.51 through 700.54, item 700.60, item 700.75, and disposable footwear, designed for one-time use, provided for in item 700.85;

(ii) the term "*athletic footwear*" means footwear of special construction for baseball, football, soccer, track, skating, skiing, and other athletic games, or sports; and

(iii) the term "*restraint period*" refers to the period beginning June 28, 1977, and ending June 30, 1978, and thereafter to the three subsequent 12-month periods beginning July 1 in one year and ending at the close of June 30 of the following year.

(b) *Export visa.*—None of the footwear provided for herein exported on or after June 28, 1977, from the foreign countries involved may be entered unless such footwear is accompanied by an appropriate export visa issued by the government of the exporting country.

(c) *Footwear in bonded warehouse.*—All footwear exported from the Republic of China that is in bonded warehouse as of May 14, 1977, and all footwear exported from the Republic of Korea that is in bonded warehouse as of May 16, 1977, may be withdrawn for consumption without an export visa on or before the 20th day following the date of publication in the FEDERAL REGISTER of the orderly marketing agreements concerning footwear negotiated with such countries. Thereafter such footwear may be withdrawn for consumption only if it is accompanied by an appropriate export visa issued by the government of the exporting country.

(d) *Footwear exported prior to June 28, 1977.*—All footwear not covered by paragraph (c), which was exported from the foreign country involved prior to June 28, 1977, may be entered prior to September 1, 1977, without the requirement of export visas, provided that all such footwear entered on or after June 1, 1977, in excess of 33 million pairs from the Republic of China and 9 million pairs from the Republic of Korea shall be counted against the respective restraint levels for the first restraint period by pro-rating such imports among the respective

TSUS items for each country as follows: For the Republic of China, item 923.90, 8 percent, item 923.91, 86 percent, and item 923.92, 6 percent; and for the Republic of Korea, item 923.93, 35 percent, and item 923.94, 65 percent. No such footwear may be entered on or after September 1, 1977, unless accompanied by an appropriate export visa issued by the exporting country and such footwear shall be counted against the applicable restraint levels.

Post, p. 1748.

(e) *Footwear exported and entered in different restraint periods.*—Footwear which is exported from the foreign country during one restraint period, but is entered more than 90 days following the beginning of the subsequent restraint period, shall be counted against the restraint levels for that subsequent restraint period. Footwear, which is exported from the foreign country during one restraint period in excess of the restraint level for such item for such period, may be entered after the beginning of the next restraint period and shall be counted against the restraint level for such item for such subsequent restraint period.

(f) *Carryover.*—Except as provided for in paragraph (h), if the restraint level for any item has not been filled for a restraint period, upon appropriate request of the foreign government involved, the shortfall may be entered under the same item during the following restraint period provided that the amount of shortfall so entered does not exceed 11 percent of the restraint level for the restraint period during which the shortfall occurred. If, in accordance with the provisions of paragraph (ij), all or part of a restraint level of any item has been reallocated to the restraint level of one or more of the other items, such amount will not be considered a shortfall, and therefore is not available for carryover.

(g) *Exceeding restraint levels.*—Upon appropriate request of the foreign government involved, restraint levels for each item may be exceeded by not more than 6 percent during any one restraint period, except as provided for in paragraph (h). If a restraint level is exceeded during a restraint period, the Special Representative for Trade Negotiations shall make a downward adjustment of the restraint level for the next succeeding restraint period in the absolute amount the preceding restraint level was exceeded.

(h) *Limitation on paragraphs (f) and (g).*—Paragraphs (f) and (g) may not be used in combination to increase the restraint level applicable to any item in any restraint period by more than 11 percent.

(ij) *Adjustments.*—Upon appropriate request of the foreign government involved for an adjustment of the restraint levels between items as provided for herein, the Special Representative for Trade Negotiations shall adjust the restraint level accordingly, such adjustments to be effective on and after the date of their publication in the FEDERAL REGISTER. Except as provided for later in this paragraph, an upward adjustment in a restraint level for exports from a foreign country shall not exceed the percentage of the respective base limit shown below and must be accompanied by a downward adjustment in the same absolute amount of the restraint level applicable to one or more of the other items set forth in the table below for exports during the same restraint period from the foreign country involved. The Special Representative for Trade Negotiations may, in his discretion, permit an upward adjustment of not over 50 percent of any restraint level applicable to item 923.92 in any restraint period provided that the restraint levels applicable to items 923.90 or 923.91 in the same restraint period are reduced by the same absolute amount.

Item	Restraint periods							
	June 28, 1977– June 30, 1978		July 1, 1978– June 30, 1979		July 1, 1979– June 30, 1980		July 1, 1980– June 30, 1981	
	Base limit	Maximum increase	Base limit	Maximum increase	Base limit	Maximum increase	Base limit	Maximum increase
	<i>1,000 pairs</i>	<i>Percent</i>	<i>1,000 pairs</i>	<i>Percent</i>	<i>1,000 pairs</i>	<i>Percent</i>	<i>1,000 pairs</i>	<i>Percent</i>
923.90	9,760	10	10,000	10	10,240	10	10,480	10
923.91	104,680	10	107,250	10	109,820	10	112,400	10
923.92	7,560	15	7,750	15	7,940	15	8,120	15
923.93	11,520	10	12,740	10	13,090	10	13,260	10
923.94	21,480	15	23,760	15	24,410	15	24,740	15"

(k) *United States International Trade Commission (USITC) reports and surveys.*—The USITC shall issue reports and conduct surveys with respect to footwear as follows:

(i) *Quarterly*.—Reports by calendar quarter showing monthly data on U.S. production, imports for consumption, apparent U.S. consumption, employment and prices. The initial report shall cover 1975, 1976 and the first two quarters of 1977; the last such report shall cover the quarter which ends not less than 60 days prior to the termination of the import relief. The reports shall be published within 60 days of the end of a quarter.

(ii) *Annually*.—Annual surveys to obtain from domestic producers data on profits, orders, capacity, inventories, prices, capital expenditures, and research and development expenditures; and to obtain from importers data on prices, orders, and inventories. The initial survey shall cover the calendar year 1976 and the calendar year 1977, and the results shall be published by May 31, 1978. The results of subsequent surveys shall be published by May 31 of each year thereafter so long as the import relief is in effect.

(b) by inserting in numerical sequence the following new provisions:

"Item"	Articles	Quota Quantity (in 1,000 pairs)			
		Exported on or after—			
		June 28, 1977	July 1, 1978	July 1, 1979	July 1, 1980
	Whenever the respective aggregate quantity of footwear specified below for items 923.90 through 923.94, inclusive, the product of a specified foreign country, has been exported in any restraint period from that country and has been entered, no article in such item the product of such country exported during such restraint period may be entered, except as provided in headnote 3:				
	Republic of China:				
923. 90	Footwear provided for in items 700.05 through 700.45.....	9, 760	10, 000	10, 240	10, 480
923. 91	Footwear provided for in item 700.58.....	104, 680	107, 250	109, 820	112, 400
923. 92	Footwear provided for in items 700.66 through 700.85 (except item 700.75 and disposable footwear, designed for one-time use provided for in item 700.85).....	7, 560	7, 750	7, 940	8, 120
	Republic of Korea:				
923. 93	Footwear (except athletic footwear) provided for in items 700.05 through 700.45.	11, 520	12, 740	13, 090	13, 260
923. 94	Athletic footwear provided for in items 700.05 through 700.45, and footwear provided for in item 700.58 and items 700.66 through 700.85 (except item 700.75 and disposable footwear, designed for one-time use provided for in item 700.85).....	21, 480	23, 760	24, 410	24, 740"